

Golf contract terminated

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The Board of Selectmen declared at their meeting Monday night that Johnson Golf Management, Inc. violated the terms of its management agreement for the town-owned North Hill golf course and voted to terminate the contract, effective Oct. 31.

Selectmen also voted to notify and instruct all current members of the North Hill Country Golf Club on Merry Avenue not to pay any membership fees until further notice from the town.

They asked Town Manager Richard MacDonald to pres-

ent them options for the future management of the nine-hole course by their next meeting on Oct. 25.

Selectmen voted 2-1 on these decisions. Selectman Christopher Donato cast the dissenting vote.

Two weeks ago, MacDonald presented the Board of Selectmen with a list of nine alleged contract violations by Johnson Golf of Weston.

Selectmen based their termination decision on what they said were the four most serious problems: that Johnson Golf failed to provide a surety bond to protect the financial

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interests of the town and residents; that the company has not submitted a 2009 audit of the business; that Johnson Golf increased membership fees a year earlier than the contract allowed and that Johnson Golf submitted handwritten financial information that did not meet acceptable accounting practices.

They briefly discussed other violations, including the alleged facts that Johnson Golf failed to pay rent and other payments on time, that Johnson illegally operated an alcohol cart on the course in past years and that the manager established a holiday fee schedule without the town's permission.

Selectmen Chairman Shawn Dahlen said Johnson Golf's inability to get a surety bond was the most serious violation, because owner Doug Johnson is under court order to operate North Hill under the terms of his previous contract, which specified a surety bond must be in place. The bond is the town's insurance if Johnson defaults on the agreement or declares bankruptcy; it covers the town financially so it can keep the golf course running. Johnson has said he is unable to obtain a bond because of his lawsuit against the town.

Johnson, who has managed the course for the past 15 years, sued the town in 2008 after losing the management contract to Calm Golf of Rockland. The lawsuit claims that Calm Golf is financially unqualified and that the town conspired against him. Johnson was successful in seeking an injunction against the town in Middlesex County court, which has allowed him to remain in control of North Hill under the terms of his last contract, which ended in December 2008.

"It is essential for the town to have a surety bond," said Dahlen. "It was part of the original contract, it was part of the court order to continue operating under all terms and conditions of the contract and it's clear that the surety bond isn't in place. I find that to be the most substantial issue."

Selectman Betsy Sullivan called the lack of a bond "deeply troubling."

"I am deeply concerned about the surety bond," Sullivan said. "It is the job of this board to do one thing and that is to protect the financial welfare of this town and the

people in this town. By having this contract or lack of a contract go forth without a surety bond, we are leaving everyone who uses North Hill at risk, because we have not got the money to fill the hole if there is a problem, and in this type of a relationship, the fact that there would be a problem is more likely than not."

Donato disagreed with Dahlen and Sullivan, saying he felt the issue of a bond would be resolved soon by the court, and he wanted the town to wait until the end of November to see if Johnson obtains a bond before taking action to terminate the contract. He suggested that any membership fees for 2011 be collected and placed into an escrow account to protect them.

"All payments are current, and from talking to people who play at the course, the course is in good shape," said Donato. "We have someone we may not always agree with, but we have someone we know can manage the course. I'd prefer to let the court handle it."

Johnson was ordered by the Middlesex Superior Court to produce a \$500,000 security bond because he could not get the surety bond required by the contract. Johnson's attorney Steve Follansbee told selectmen Monday that Johnson felt that amount ordered by the court was too high, and that he petitioned the court last week to lower the amount to \$175,000.

Dahlen and Sullivan said that it would be "irresponsible" of selectmen to ignore the lack of the bond, and they did not believe that the court would act anytime soon.

"We've also been waiting for the court to move on this for two years," said Sullivan. "It's very hopeful to think they are suddenly going to be responsive to this."

"The fact that there is no surety bond has put the town at risk since the day the last one expired and I cannot in good conscience allow that to continue," she added. "We need to move ahead. I think we need to send a message that we are done with this now. And this is beyond any acceptable relationship we have with the vendor."

Dahlen said he was also troubled by the fact that in the past eleven months Johnson had not submitted an independent audit of his business for 2009.

Recreation Director Gor-

don Cushing said Johnson had never submitted an audit to the town, although Follansbee said audits from 2006 through 2008 were attached to Johnson's bid for the last contract. Dahlen told Follansbee that these documents had never been given to the Board of Selectmen.

Sullivan vocalized her disgust at the financial information Johnson had submitted to the town.

"I can't even come up with a word for the financial reporting," she said. "It's not up to any accounting standard I have seen. It's scratched out. It's written in pen. There's no detail. It should never have been accepted by the town."

Regarding the other contract violations, Sullivan pointed out that records show that there were times Johnson had not paid the rent on time because he made double payments. Dahlen said Johnson also violated the agreement by increasing membership rates in 2009, when the contract allows a rate increase every three years with the last one occurring in 2007.

Town Counsel Robert Troy filed a motion last Friday to dissolve the court's injunction that allows Johnson to run North Hill. The planned date of this hearing is Nov. 3 in Middlesex Superior Court.

Troy said that since Johnson did not post a bond as ordered by the court, he is no longer entitled to the injunction.

According to Troy, if the town prevails in the lawsuit and Johnson leaves North Hill, the town must follow through with its award of the contract to Calm Golf of Rockland. If Calm Golf cannot accept the contract, the town will put the management agreement out to bid again. Another option is for the town to run North Hill on its own, but Troy said the town must ask Town Meeting for the operating funds to do so.